

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1: Financial Distress in Residential Care Facilities for the Elderly (RCFE)

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 5, 2017, as follows:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The CDSS will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 5, 2017.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the regulations text are available on the internet at <http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations>. Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586 FACSIMILE: (916) 654-3286 E-MAIL: ord@dss.ca.gov

CHAPTERS

Title 22, Division 6, Chapter 8, section 87211

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations for RCFEs include specific reporting requirements for licensees to submit to CDSS within a specified time frame for specified events taking place. Reportable events include death or serious injury of a resident, use of an Automated External Defibrillator, any incident that threatens the welfare, safety or health of a resident, epidemic outbreaks, catastrophic events and/or hiring of a new facility administrator.

The proposed regulations will enact the RCFE Residents Foreclosure Protection Act of 2011 [Senate Bill (SB) 897, (Chapter 376, Statutes of 2011)], which added Section 1569.686 to the Health and Safety Code (HSC). These regulations will expand current reporting requirements to include various events signifying possible financial distress for RCFE licensees. Licensees experiencing any of the financial distress events, such as notice of default or other indication of property foreclosure, unlawful detainer, filing of bankruptcy or notice of intent to terminate utilities, are required to report such to CDSS, State Long-Term Care Ombudsman, residents and their representatives within the specified time frame. Licensees are also required to report such events to potential residents and their representatives prior to admission. Upon receipt of such a report, CDSS shall initiate corrective action. A licensee that fails to report any of these events may be subject to a civil penalty.

The Community Care Licensing Division (CCLD) is proposing regulations to adopt language in the California Code of Regulations (CCR), Title 22, Division 6, Chapter 8, section 87211 compatible and consistent with the intent of SB 897 (Chapter 376, Statutes of 2011). These reporting requirements enable CDSS to address any quality of care issues that could arise in an RCFE experiencing financial distress, such as inadequate resources and/or the inability to provide appropriate staffing levels to provide care and supervision for residents. The proposed regulations will benefit residents and their families by providing advance notice of any financial distress events, thereby, allowing for the opportunity to research alternative placement and prepare residents for possible relocation. These reporting requirements provide protection to the health and safety of RCFE residents and prospective residents. The promulgation of these regulations is necessary to carry out CCLD's core function of protecting the health and safety of the vulnerable elderly population in licensed residential care.

During the process of developing these regulations, CDSS has conducted a search of any similar regulations on this topic (Financial Distress, RCFE) and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

Anticipated Benefits

The proposed regulations will assist CDSS in protecting resident health and safety by addressing any quality of care issues that could arise in an RCFE experiencing financial distress as exhibited by the occurrence of any of the specified events. These events could signify inadequate resources and/or appropriate staffing levels to provide care and supervision to residents. These regulations will

benefit residents and their families by providing advance notice of any financial distress events, thereby, allowing for the opportunity to research alternative placement and prepare residents for possible relocation.

COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies and school districts for certain costs mandated by the State. There are no reimbursable state-mandated costs under Section 17500 et seq., of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has not received any facts, evidence, documents, testimony or other evidence to indicate there has been any significant, statewide adverse economic impact on business related to these laws. In addition, the proposed regulations are implementing state law. If there were to be any adverse economic impact on business, it would be a result of the passage of the enacting laws, not the regulations themselves. As such, CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The proposed regulations will assist CDSS in protecting resident health and safety by addressing any quality of care issues that could arise in an RCFE experiencing financial distress as exhibited by the occurrence of any of the specified events.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

In developing the regulatory action, CDSS did not consider any other alternatives than the one proposed because this was the most effective. No reasonable alternative has been presented for review.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

SB 897, Chapter 376, Statutes of 2011; HSC section 1569.686

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Oliver Chu	(916) 657-2586
Backup:	Sylvester Okeke	(916) 657-2586